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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/023,671	12/18/2001	Christine McBride	CER-296	3208

20311 7590 09/10/2003

MUSERLIAN AND LUCAS AND MERCANTI, LLP  
600 THIRD AVENUE  
NEW YORK, NY 10016

EXAMINER

WONG, LESLIE A

ART UNIT	PAPER NUMBER
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1761

DATE MAILED: 09/10/2003

Please find below and/or attached an Office communication concerning this application or proceeding.



Art Unit: 1761

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 6-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Anonymous (508653 FSTA), Furata et al (448203 FSTA), and Reineccius et al (1988(10):T0028 FSTA) for the reasons set forth in rejecting the claims in the last Office action. The amendments to the claims are not seen to influence the conclusion of unpatentability previously set forth.

Anonymous (508653 FSTA) discloses the encapsulation of flavors with cyclodextrin (see abstract).

Furata et al (448203 FSTA) disclose the cyclodextrin encapsulation of flavors (see abstract).

Reineccius et al (1988(10):T0028 FSTA) disclose the use of beta cyclodextrin to encapsulate fruit flavors (see abstract).

The claims differ as to the specific addition of the encapsulated flavor to prepared food products.

In the absence of a showing to the contrary, the addition of a cyclodextrin encapsulated flavor to prepared food products is no more than expected and well-within the skill of the art.

Applicant is using a known product for its art-recognized function.

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It would have been obvious to a person of ordinary skill in the art, at the time the invention was made, to use the cyclodextrin encapsulated flavor of Anonymous (508653 FSTA), Furata et al (448203 FSTA), and Reineccius et al (1988(10):T0028 FSTA) in prepared food products as the use of encapsulated flavors in food products is conventional in the art.

Applicant's arguments filed June 23, 2003 have been fully considered but they are not persuasive.

Applicant argues that none of the reference teach neither the long term frozen storage stability nor microwave cooking stability.

The prior art clearly teaches the encapsulation of flavors with cyclodextrin. The observation of still another beneficial result in an old process cannot form the basis of patentability, see *In re Jones* 1941 CD 686. In the absence of a showing to the contrary it appears that Applicant obtains no more than what is to be expected.

In the absence of unexpected results, it is not seen how the claimed invention differs from the teachings of the prior art. Applicant's claims are drawn to a combination of known components which produces expected results, see *In re Kerkhoven* 205 USPQ 1069 and *In re Gershon* 152 USPQ 602.

All of the claim limitations and arguments have been considered. None of them are seen as serving as basis for patentability.

No claim is allowed.

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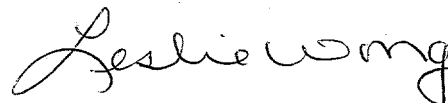
**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 C.F.R. § 1.136(a).

A SHORTENED STATUTORY PERIOD FOR RESPONSE TO THIS FINAL ACTION IS SET TO EXPIRE THREE MONTHS FROM THE DATE OF THIS ACTION. IN THE EVENT A FIRST RESPONSE IS FILED WITHIN TWO MONTHS OF THE MAILING DATE OF THIS FINAL ACTION AND THE ADVISORY ACTION IS NOT MAILED UNTIL AFTER THE END OF THE THREE-MONTH SHORTENED STATUTORY PERIOD, THEN THE SHORTENED STATUTORY PERIOD WILL EXPIRE ON THE DATE THE ADVISORY ACTION IS MAILED, AND ANY EXTENSION FEE PURSUANT TO 37 C.F.R. § 1.136(a) WILL BE CALCULATED FROM THE MAILING DATE OF THE ADVISORY ACTION. IN NO EVENT WILL THE STATUTORY PERIOD FOR RESPONSE EXPIRE LATER THAN SIX MONTHS FROM THE DATE OF THIS FINAL ACTION.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Leslie Wong whose telephone number is (703) 308-1979. The examiner can normally be reached on Tuesday-Friday.

The fax number for this Group is (703) 872-9310 for non-final responses and (703) 872-9311 for after-final responses.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0661.



**Leslie Wong**  
**Primary Examiner**  
**Art Unit 1761**

LAW  
September 8, 2003